



Appeal Decision

Site visit made on 11 July 2023

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st July 2023

Appeal Ref: APP/Q3820/D/23/3321910

76 Dower Walk, Gossops Green, CRAWLEY, RH11 8HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs A Seymour against the decision of Crawley Borough Council.
 - The application Ref. CR/2022/0748/FUL, dated 11 November 2022, was refused by notice dated 6 April 2023.
 - The development proposed was originally described as 'permission to build in one single phase: Two storey side extension (approved under application CR/2021/0906/FUL) and single storey rear extension (approved under application (CR/2021/0628/192)'.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of part two storey side extension and single storey rear extension at 76 Dower Walk, Gossops Green, CRAWLEY, RH11 8HY, in accordance with the terms of the application, Ref. CR/2022/0748/FUL, dated 11 November 2022, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 03 Revision D (Location & Block Plans); and 02 Revision C (Proposed Plans).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The extension hereby permitted shall not be occupied until the new windows at first floor level in the western and southern elevations have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed, the obscured glazing shall be retained thereafter.
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows [other than those expressly authorised by this permission] shall be constructed above the first floor of the south and west facing elevations of the extension hereby permitted.

Procedural Matter

2. The description of development in the banner heading has been taken from the planning application form, but in the formal decision I have used the more succinct description given on the Council's decision notice and the appellants' appeal form.

Background

3. In February 2021, an appeal for single-storey front and rear extensions and a two-storey side extension was dismissed at the appeal site (ref. APP/Q3820/W/20/3263457) [hereafter the '2021 appeal']. The reasons for the dismissal included the adverse impact of a 3m deep single-storey rear extension on the living conditions of occupants of 74 Dower Walk. A revised scheme was refused later that year under ref. CR/2021/0626/FUL.
4. In December 2021, the Council issued a Certificate of Lawful Development (CLD) [application ref. CR/2021/0628/192] for single storey rear and side extensions. With a modest gap between the two elements, a 3m deep single-storey rear extension was shown to be built up to the boundary with 74 Dower Walk.
5. The Council subsequently granted planning permission for a single and two-storey side extension (ref. CR/2021/0906/FUL) in May 2022.
6. This proposal effectively seeks to link, and build at the same time, the part two-storey side extension granted under ref. CR/2021/0906/FUL with the single-storey rear extension which the Council determined could be constructed as Permitted Development (PD) under ref. CR/2021/0628/192.

Main Issue

7. The main issue is the effect of the proposed single-storey rear extension on the living conditions of occupants of 74 Dower Walk (No.74), with particular reference to outlook, access to light and the potential for overshadowing.

Reasons

8. The appeal property is a semi-detached house with a lightweight conservatory next to the boundary with the attached dwelling, No.74, to the north. No. 74 has no rear extensions, with a glazed door and window reasonably close to the boundary. A tree within the garden of No.74 creates a degree of shading to its patio area.
9. Policy CH3 of the Crawley Borough Local Plan 2015 – 2030 (adopted 2015) [LP] requires development to retain a good standard of amenity for all existing and future occupants of land and buildings, and to not cause unreasonable harm to the amenity of the surrounding area in matters including dominance or overshadowing. In support of its policies, the Council's Urban Design Supplementary Planning Document 2016 (SPD) seeks to limit overshadowing of a neighbouring property by applying a '45-degree guide test'. Development Guidance point 3.30 states that a single storey extension should not encroach into an area measured by drawing a 45-degree angle from the nearest edge of a neighbour's window or door aperture.
10. The proposal would breach this guideline, and I do not disagree with the assessment of the previous appeal Inspector, that due to the depth of the

proposed rear extension and its proximity to the boundary and nearest door at No.74, that the addition would appear as a dominant and overbearing intrusion in the outlook from the neighbouring living space; and with the potential to create overshadowing due to the orientation.

11. However, a significant material change in circumstances since the 2021 appeal is the issuing of a CLD for a single-storey rear extension of the same depth, height and position relative to the party boundary as proposed in this appeal. There is no indication that this information was before the previous Inspector, and I do not share the Council's view that circumstances have not materially changed since the dismissed appeal.
12. Given the level of accommodation that the CLD scheme would provide, I have no reason to doubt the appellants' assertion that, were the appeal to fail, the approved side extension and CLD scheme would both be built. The Council also accepts this likelihood in its delegated report. Whilst there would be an internal wall between the two extensions, I do not consider that the layout would be so impractical as to make the prospect of the construction of the two separate elements unlikely. As such, there is a realistic 'fallback' position that both extensions would be built.
13. On that basis, the dismissal of this appeal would still likely result in a single-storey rear extension equivalent to that included in this appeal being built close to the boundary with No.74. As the only element in this proposal which would conflict with LP Policy CH3 and the SPD may be constructed as PD, allowing this appeal would have no greater effect on the living conditions of occupants of No.74 than the fallback position. Removing an internal wall between the CLD extension and that granted under ref. CR/2021/0906/FUL would have no impact on any neighbouring property. However, in terms of the design and functioning of the extension as a whole, the loss of the gap would be beneficial.
14. I therefore conclude that the proposed single-storey rear extension would have the potential to adversely affect the living conditions of occupants of 74 Dower Walk as a result of dominance and overshadowing, contrary to LP Policy CH3 and the SPD. However, the ability to construct as PD an extension of the same size and position relative to the shared boundary is a material consideration which justifies a grant of planning permission contrary to the above policy.
15. In view of the extant planning permission, I find the part two-storey side extension included within this appeal to be compliant with LP Policy CH3 and acceptable in design terms and in relation to neighbouring residents.

Other Matters

16. The Council's delegated report confirms that a screening assessment has concluded that house extensions do not increase water usage and are therefore water neutral; and that the proposal would not therefore adversely affect the Arun Valley's protected SAC, SPA and Ramsar sites. In allowing the appeal, I am satisfied that the proposal would have no adverse effect on the integrity of any protected site.

Conditions

17. In addition to the standard time limit, I have attached a condition specifying the approved drawings as this provides certainty. It is also appropriate to control materials to match the existing dwelling, in order to safeguard the

character and appearance of the development and the area. With some modification to reflect published model conditions, I have attached the Council's suggested conditions for obscure glazing and to restrict further openings, in the interests of protecting the privacy of adjacent residents.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed.

H Lock

INSPECTOR